



January 30, 2004

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## HOUSE BILL No. 1266

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DIGEST OF HB 1266 (Updated January 27, 2004 5:11 pm - DI 92)

**Citations Affected:** IC 4-13; IC 5-21; IC 5-22; noncode.

**Synopsis:** Internet based public purchasing. Authorizes the department of administration to establish Internet sites designed to facilitate state and local public purchasing. Requires the department of administration to establish rules and fees for the use of Internet purchasing sites in cooperation with the intelenet commission and the state board of accounts. Permits a purchasing entity to conduct on-line reverse auctions for purchases of supplies. Authorizes county and municipal purchasing agencies to purchase supplies through the internet or by means of a reverse auction. Establishes procedures governing the conduct of an on-line reverse auction. Requires that Internet purchasing sites be operational before January 1, 2005.

**Effective:** Upon passage; July 1, 2004.

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**Ayres, Hasler, Thomas, Austin**

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January 15, 2004, read first time and referred to Committee on Technology, Research and Development.

January 26, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

January 29, 2004, amended, reported — Do Pass.

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HB 1266—LS 7076/DI 108+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1266

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-13-17 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2004]:

4 **Chapter 17. Internet Purchasing Sites**

5 **Sec. 1. As used in this chapter, "department" refers to the**  
6 **Indiana department of administration.**

7 **Sec. 2. As used in this chapter, "internet purchasing site" means**  
8 **an open and interactive electronic environment that is:**

9 (1) **designed to facilitate the purchase and sale of supplies**  
10 **conducted under IC 5-22;**

11 (2) **approved and managed by the department; and**

12 (3) **linked to the electronic gateway administered by the**  
13 **intelenet commission established by IC 5-21-2-1.**

14 **Sec. 3. As used in this chapter, "purchasing agency" has the**  
15 **meaning set forth in IC 5-22-2-25.**

16 **Sec. 4. The department may adopt rules under IC 4-22-2 to**  
17 **establish:**

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(1) procedures for the use of Internet purchasing sites:

(A) by:

(i) a purchasing agency;

(ii) a cooperative purchasing organization described in IC 5-22-4-7; and

(iii) the public;

to facilitate purchases and sales conducted under IC 5-22; and

(B) by other entities to facilitate purchases and sales conducted by other entities, if considered beneficial by the department;

(2) user fees payable by a bidder using an Internet purchasing site;

(3) the technical requirements for operation of an Internet purchasing site;

(4) procedures requiring the proper officers to maintain adequate documentation of transactions performed through the Internet purchasing site so that the officers may be audited as provided by law;

(5) procedures necessary for the operation of Internet purchasing sites; and

(6) procedures for the use of commercial Internet auction sites under IC 5-22-22-4.5.

**Sec. 5. An Internet purchasing site must:**

(1) provide an authorized user with the ability to issue an invitation for bids electronically;

(2) protect the content of an electronic offer to the extent required under IC 5-22;

(3) provide an authorized user with a secure, accurate report of all information contained in electronic offers made through the site on or before the deadline established by the authorized user; and

(4) comply with IC 5-22.

**Sec. 6. The department shall provide the equipment and information technology services necessary to operate the Internet purchasing sites required under this chapter.**

**Sec. 7. The department shall provide authorized users and the public with access to Internet purchasing sites by links to the electronic gateway administered by the intelnet commission.**

**Sec. 8. The following shall cooperate with the department to implement this chapter:**

(1) The intelnet commission.

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(2) The state board of accounts.

(3) The attorney general.

(4) The auditor of state.

SECTION 2. IC 5-21-1-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. "Internet purchasing site" has the meaning set forth in IC 4-13-17-2.**

SECTION 3. IC 5-21-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The commission shall design, develop, contract for, and manage statewide, integrated telecommunication networks and information technology services that economically, efficiently, and effectively meet the needs of authorized users. When technically possible and cost efficient, the system shall use facilities of the certificated local exchange telephone companies. The intelenet system may include the following:

- (1) A statewide voice network.
- (2) Voice connections into each county in the state.
- (3) Interfacing with out-of-state voice facilities.
- (4) Lines to connect computers and terminals.
- (5) High speed data switching capacity.
- (6) Data connections into each county in the state.
- (7) A statewide broadcast network for video signals.
- (8) Two-way video conferencing capacity.
- (9) **Internet purchasing sites.**
- (10) Other telecommunication and information technology services approved by the commission.

The commission shall provide the intelenet system and accessIndiana solely to carry out or to facilitate the carrying out of the essential public, educational, and governmental functions of authorized users.

SECTION 4. IC 5-22-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.**

SECTION 5. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet.**

SECTION 6. IC 5-22-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: **Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet.**

SECTION 7. IC 5-22-3-4, AS AMENDED BY P.L.1-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) Whenever this article requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:

- (1) Rules adopted by the governmental body.
- (2) Written policies of the purchasing agency.
- (3) A solicitation.

(b) Rules, written policies, and solicitation statements described in subsection (a):

- (1) are subject to this article; and
- (2) must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

(c) A governmental body may receive electronic offers if both of the following apply:

- (1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.
- (2) The governmental body receives the offer on a fax machine, by electronic mail, or by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

**(d) A governmental body conducting a reverse auction must receive electronic offers through an Internet purchasing site.**

SECTION 8. IC 5-22-7-5, AS AMENDED BY P.L.31-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelenet commission.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

- (1) the electronic gateway administered by the intelenet commission as determined by the commission; **or**
- (2) **any other electronic means available to the political subdivision.**

SECTION 9. IC 5-22-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2004]:

**Chapter 7.5. On-Line Reverse Auctions**

**Sec. 1.** As used in this chapter, "purchasing entity" means an entity that may use an Internet purchasing site under rules adopted under IC 4-13-17-4.

**Sec. 2. (a)** A purchasing entity may conduct a reverse auction for the purchase of property and supplies by using an Internet purchasing site to:

- (1) issue an invitation for bids; and
- (2) receive bids.

**(b)** Except as provided in this chapter, a purchasing entity and a bidder must comply with the requirements of this article when participating in a reverse auction.

**Sec. 3.** Before conducting a reverse auction, the purchasing entity must adopt written policies that:

- (1) establish the purchasing entity's reverse auction purchasing process, if required under IC 5-22-3-4;
- (2) comply with rules for Internet public purchasing sites adopted by the Indiana department of administration under IC 4-13-17-4; and
- (3) require the purchasing entity to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law.

**Sec. 4.** If a purchasing entity issues an invitation for bids using a reverse auction conducted through an Internet purchasing site under this chapter, only bids made:

- (1) in accordance with the rules and policies described in section 3 of this chapter; and
- (2) through the Internet purchasing site;

may be evaluated by the purchasing entity at the close of bidding.

**Sec. 5.** When used for a reverse auction, an Internet purchasing site must do the following:

- (1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders.
- (2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing.
- (3) Conceal information that identifies a bidder.
- (4) Comply with this article.

**Sec. 6.** The Indiana department of administration may charge a bidder in a reverse auction a fee adopted under IC 4-13-17-4(2).

**Sec. 7.** For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a

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1 computer generated record of the information contained in all bids  
 2 for a proposed purchase or sale that were received by the site on or  
 3 before the posted bid deadline is reviewed publicly by the  
 4 purchasing entity in the presence of one (1) or more witnesses at  
 5 the time and place designated in the invitation for bids.

6 SECTION 10. IC 5-22-10-21 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) This section applies to:

9 (1) municipalities; and

10 (2) counties.

11 (b) A purchasing agency may purchase supplies:

12 (1) through the Internet; or

13 (2) by means of a reverse auction;

14 in accordance with written policies for the operation of the  
 15 purchasing agency's Internet purchasing site.

16 (c) The purchasing agency must adopt written policies for the  
 17 operation of the purchasing agency's Internet purchasing site,  
 18 including policies for:

19 (1) transmitting:

20 (A) notices;

21 (B) solicitations; and

22 (C) specifications;

23 (2) receiving offers;

24 (3) making payments;

25 (4) protecting:

26 (A) the identity of an offeror; and

27 (B) the amount of an offer until the time fixed for the  
 28 opening of offers;

29 (5) for a reverse auction, providing for the display of the  
 30 amount of each offer previously submitted for public viewing;

31 (6) establishing the deadline by which offers must be received  
 32 and will be considered to be open and available for public  
 33 inspection; and

34 (7) establishing the procedure for the opening of offers.

35 (d) IC 5-22-16-6(a)(2) does not apply to a reverse auction.

36 SECTION 11. IC 5-22-22-4.5, AS ADDED BY P.L.31-2002,  
 37 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2004]: Sec. 4.5. (a) The purchasing agency may sell surplus  
 39 property using ~~an~~ a commercial Internet auction site that satisfies if  
 40 both of the following are satisfied:

41 (1) The site is ~~approved~~ used in compliance with the  
 42 procedures established by the ~~intelenet commission~~ Indiana

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**department of administration under IC 4-13-17-4(6).**

(2) The site is linked to the electronic gateway administered by the intelenet commission.

(b) The purchasing agency's posting of the sale on the ~~Internet auction~~ site must include a detailed description of the surplus property to be sold.

(c) The purchasing agency may pay the costs of conducting the auction on the ~~Internet~~ site as required by the person maintaining the ~~auction~~ site.

SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 4-13-17, as added by this act, apply throughout this SECTION.**

**(b) Notwithstanding IC 4-13-17, as added by this act, the Indiana department of administration shall:**

**(1) carry out the duties imposed upon it under IC 4-13-17, as added by this act, under interim written guidelines approved by the department; and**

**(2) provide access to Internet purchasing sites for the purposes of IC 4-13-17 and IC 5-22-7.5, both as added by this act, before January 1, 2005.**

**(c) This SECTION expires January 1, 2005.**

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 5-22-22-4.5, as amended by this act, a purchasing agent may conduct a sale of surplus property under IC 5-22-22-4.5 as in effect before the amendments made by this act through a commercial Internet auction site approved by the intelenet commission before July 1, 2004.**

**(b) This SECTION expires January 1, 2005.**

SECTION 14. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1266, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 6.

Page 1, line 7, delete "2." and insert "1."

Page 1, line 9, delete "3." and insert "2."

Page 1, line 11, after "supplies" delete "and".

Page 1, line 12, delete "services".

Page 1, between lines 15 and 16, begin a new paragraph and insert:

**"Sec. 3. As used in this chapter, "purchasing agency" has the meaning set forth in IC 5-22-2-25."**

Page 1, line 16, delete "shall" and insert "**may**".

Page 2, line 1, after "for" insert "**the**".

Page 2, line 1, after "sites" insert ":

**(A)"**.

Page 2, delete lines 2 through 3, begin a new line triple block indented and insert:

**"(i) a purchasing agency;**

**(ii) a cooperative purchasing organization described in IC 5-22-4-7; and**

**(iii) the public;"**.

Page 2, line 4, before "to" double block indent.

Page 2, line 4, after "IC 5-22;" insert "**and**

**(B) by other entities to facilitate purchases and sales conducted by other entities, if considered beneficial by the department;"**.

Page 2, line 33, delete "department shall cooperate with the following" and insert "**following shall cooperate with the department**".

Page 2, between lines 36 and 37, begin a new line block indented and insert:

**"(3) The attorney general.**

**(4) The auditor of state."**

Page 2, line 40, delete "4-13-17-3." and insert "**4-13-17-2.**".

Page 3, line 24, delete "4-13-17-3." and insert "**4-13-17-2.**".

Page 3, line 29, delete "or services".

Page 4, line 11, delete "municipality" and insert "**governmental body**".

Page 4, delete lines 17 through 18, begin a new paragraph and

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insert:

**"Sec. 1. As used in this chapter, "purchasing entity" means an entity that may use an Internet purchasing site under rules adopted under IC 4-13-17-4."**

Page 4, delete lines 19 through 20, begin a new paragraph and insert:

**"Sec. 2. (a) A purchasing entity".**

Page 4, line 21, delete "formed by two (2) or more municipalities,".

Page 4, line 22, delete "property, supplies, and services" and insert **"property and supplies"**.

Page 4, line 26, delete "agency" and insert **"entity"**.

Page 4, line 30, delete "agency" and insert **"entity"**.

Page 4, line 30, delete ":" and insert **"that:"**

Page 4, line 31, delete "that".

Page 4, line 31, delete "agency's" and insert **"entity's"**.

Page 4, line 32, after "process" insert **", if required"**.

Page 4, line 33, delete "that".

Page 4, line 36, delete "that ".

Page 4, line 36, delete "agency" and insert **"entity"**.

Page 4, line 39, delete "agency" and insert **"entity"**.

Page 5, line 3, delete "agency" and insert **"entity"**.

Page 5, line 6, delete "agency" and insert **"entity"**.

Page 5, line 19, delete "agency" and insert **"entity"**.

Page 6, delete lines 3 through 5, begin a new line block indented and insert:

**"(2) provide access to Internet purchasing sites for the purposes of IC 4-13-17 and IC 5-22-7.5, both as added by this act, before January 1, 2005."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1266 as introduced.)

HASLER, Chair

Committee Vote: yeas 14, nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1266, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 30 through 39, begin a new paragraph and insert:

"SECTION 4. IC 5-22-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.**

SECTION 5. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet."**

SECTION 6. IC 5-22-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet."**

Page 4, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 7. IC 5-22-7-5, AS AMENDED BY P.L.31-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.**

**(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelnet commission.**

**(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:**

- (1) the electronic gateway administered by the intelnet commission as determined by the commission; or**
- (2) any other electronic means available to the political subdivision."**

Page 5, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 8. IC 5-22-10-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21. (a) This section applies to:**

- (1) municipalities; and**

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- (2) counties.
- (b) A purchasing agency may purchase supplies:
  - (1) through the Internet; or
  - (2) by means of a reverse auction;
 in accordance with written policies for the operation of the purchasing agency's Internet purchasing site.
- (c) The purchasing agency must adopt written policies for the operation of the purchasing agency's Internet purchasing site, including policies for:
  - (1) transmitting:
    - (A) notices;
    - (B) solicitations; and
    - (C) specifications;
  - (2) receiving offers;
  - (3) making payments;
  - (4) protecting:
    - (A) the identity of an offeror; and
    - (B) the amount of an offer until the time fixed for the opening of offers;
  - (5) for a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing;
  - (6) establishing the deadline by which offers must be received and will be considered to be open and available for public inspection; and
  - (7) establishing the procedure for the opening of offers.
- (d) IC 5-22-16-6(a)(2) does not apply to a reverse auction."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1266 as printed January 27, 2004.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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